

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JASON WINEKE,)	
)	
Plaintiff,)	
)	
v.)	No. 1:18-cv-03306-WTL-DLP
)	
TRANSUNION CREDIT AGENCY,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION TO
DISMISS COMPLAINT WITHOUT PREJUDICE

The Court scheduled an Initial Pretrial Conference on December 27, 2018. At the Plaintiff's request and to accommodate his holiday schedule, the conference was moved to January 11, 2019. Due to the Court's calendar, the conference was continued to January 16, 2019. The Plaintiff again requested a continuance of the Initial Pretrial Conference due to his need "to gather up and find additional paperwork/evidence." [Dkt. 15.] The Court granted the Plaintiff's request, moving the Initial Pretrial Conference to March 6, 2019. The Plaintiff did not appear.

On March 8, 2019, the Court issued an order to show cause to the Plaintiff. [Dkt. 25.] Plaintiff was ordered to show cause in person at a hearing scheduled for April 16, 2019 as to why he failed to appear for the March 6, 2019 Initial Pretrial Conference. The Order explicitly warned Plaintiff that failure to appear "may result in sanctions, up to and including case dismissal." [Dkt. 25.] Plaintiff filed a request to appear via telephone for the April 16, 2019 show cause hearing, which was denied on April 9, 2019. Plaintiff failed to appear for the show cause hearing.

On April 15, 2019, the Court received via US Mail a copy of an email the Plaintiff had sent to Judge Pryor's Chambers on March 18, 2019, wherein he informed the Court as follows:

"[i] will not be able to make the Apr.16,19 hearing. [i] didn't get any info. [t]o come to court for the 3/6/19, so why should [i] come to the April hearing?"

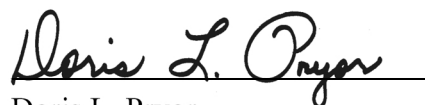
[Dkt. 30.] First, the Court addressed this March email in its Order denying Plaintiff's Motion to Appear Via Telephone for the Show Cause Hearing. [Dkt. 28.]. The Court has mailed numerous documents to the address provided by the Plaintiff and none have been returned undeliverable. Plaintiff violated this Court's orders twice by failing to appear, even in the face of an explicit warning that failure to appear could result in dismissal of the action.

Because of Plaintiff's failure to comply with the Court's orders, the Magistrate Judge recommends to the District Judge that this complaint be **DISMISSED WITHOUT PREJUDICE**.

Any objections to the Magistrate Judge's Report and Recommendation must be filed in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). Failure to file objections within fourteen days after service will constitute a waiver of subsequent review absent a showing of good cause for such failure.

So RECOMMENDED.

Date: 4/22/2019

A handwritten signature in cursive script, reading "Doris L. Pryor", written over a horizontal line.

Doris L. Pryor
United States Magistrate Judge
Southern District of Indiana

Distribution:

JASON WINEKE
5317 English Ave
Indianapolis, IN 46219

Colin C. Poling
SCHUCKIT & ASSOCIATES P.C.
cpoling@schuckitlaw.com

Justin T. Walton
SCHUCKIT & ASSOCIATES P.C.
jwalton@schuckitlaw.com